S.B.Civil Misc. Appeal No.1489/2005

State of Rajasthan. vs. M/s. Bagta Ram Contractor and anr.

Date : 19.7.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. S Toshniwal for Mr.NM Lodha, AAG, for the appellant.
Mr. HS Srimali, for the respondent no.1.

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At the request of learned counsel for the parties, the matter is finally heard and decided.

Only question involved in this appeal is whether the Arbitrator was right in awarding compound interest to the respondent no.1/contractor.

Learned Arbitrator awarded interest at the rate of 8% p.a. from 1.12.1983 to 30.9.2002. This interest has been awarded as compound interest.

According to learned counsel for the appellant, the Arbitrator could not have awarded compound interest legally and even on the facts. According to learned counsel for the appellant, the dispute was of the year 1984 and the Arbitrator was appointed after 18 years on respondent no.1 moving petition for arbitration. Therefore, on facts also, the contractor was not entitled to any interest even when the Arbitrator has awarded interest not simple but compound.

Learned counsel for the respondent no.1/contractor submitted that there was no rhyme or reason for the appellant to withhold the amount of the respondent contractor for such a long period. It is submitted that in the year 1983, the rate of interest was much more than 8% and it continued for decades, therefore, if the learned Arbitrator has awarded interest at the rate of 8% p.a., it is too law, but by compounding it, the contractor will get only reasonable amount.

I have considered the submissions of learned counsel for the parties and perused the facts of the case.

The learned Arbitrator has awarded compound interest at the rate of 8% and the civil court while considering the objections did not give detail reasons for upholding such award of interest. Even the Arbitrator in its award, though might not have required to give reasons for passing the award, but he has recorded the reasons for passing the award but merely on the ground that the amount remained pending with the department for 20 years awarded compound interest at the rate of 8%. At this place, the learned Arbitrator did not apply his mind reasonably for awarding compound interest in the facts when the dispute was raised after inordinate delay.

Therefore, the award as well as the order of the Court below making the award Rule of the Court are modified and it is held that the contractor/respondent no.1 shall be

entitled to the amount along with interest at the rate of 8% p.a. (simple and not compound) from 1.12.1983 to 30.9.2002.

In the result, this appeal is partly allowed.

(PRAKASH TATIA), J.

S.Phophaliya